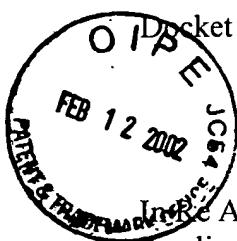


Patent



Docket No. 01-019

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application Of : Delaney, et al.
 Application No. : 10/001,889
 Filed : November 19, 2001
 Title : *METHOD FOR THE ACCELERATION AND SIMPLIFICATION
 OF FILE SYSTEM LOGGING TECHNIQUES USING STORAGE
 DEVICE SNAPSHOTS*

Box Missing Parts
 Assistant Commissioner For Patents
 Washington, DC 20231

PETITION UNDER RULE 37 C.F.R. § 1.47(a)

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. § 1.8)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

[X] deposited with the United States Postal Service with sufficient postage as first class Mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, DC 20231.

ReNea D. Berggren

FACSIMILE

transmitted by facsimile to the Patent and Trademark Office.

DATED: January 18, 2002

Dear Sir:

This petition is being filed along with the Response to Notice to File Missing Parts. The Notice to File Missing Parts was dated December 31, 2001, listing that the statutory basic filing fee was missing, an additional claims fee was missing, and the oath and declaration was unsigned.

This petition is made to request acceptance of the declaration which has been signed by only one of the two joint inventors. The nonsigning inventor had been presented with a copy of the specification and drawings of the patent application along with an assignment form and declaration form, and was requested to sign and return the assignment and declaration forms. The nonsigning inventor returned these papers to our office unsigned, as evidenced by his e mail to me dated November 20, 2001, and has refused to execute the declaration. Mr. Delaney has signed the declaration on behalf of himself and Mr. DeKoning, and the declaration is enclosed herewith.

The last known address of the nonsigning inventor, Rodney A. DeKoning, is 6876 SW Stone Gap, Augusta, Kansas, 67070.

The Commissioner is hereby authorized to charge the Petition fee in the amount of **\$130.00** to Deposit Account No. 12-2252. A duplicate copy of this *Petition* is enclosed for accounting purposes. The Commissioner is hereby authorized to grant any needed extension of time and to charge any additional fees which may be required for this *Petition*, or credit any overpayment to Deposit Account No. 12-2252.

Respectfully submitted,

By:

Walter J. Malinowski

Walter J. Malinowski
Reg. No. 43,423

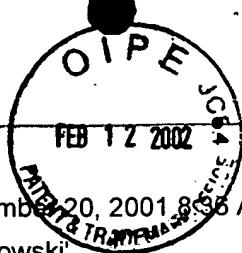
PETER SCOTT
INTELLECTUAL PROPERTY LAW DEPARTMENT
LSI LOGIC CORPORATION
M/S D-106
1551 McCARTHY BLVD.
MILPITAS, CA 95035

Mr Malinowski,

I have included our
email as reference.

Rod DeKoning

DeKoning, Rod



From: DeKoning, Rod
Sent: Tuesday, November 20, 2001 8:36 AM
To: 'Walter J. Malinowski'
Subject: RE: Papers requiring signature for filing a patent application for LSI Logic docket no. 01-019
Mr. Walter J Malinowski,

For the reasons discussed below and in not being offered a reasonable alternative, I refuse to sign the papers required to file the patent application, at the United States Patent and Trademark Office, for LSI Logic docket no. 01-019, entitled "Method for the Acceleration and Simplification of File System Logging Techniques using Storage Device Snapshots".

1. I have been incredibly flexible in completing LSI IP (10 patents since I left) including one that dragged into late March of this year. I have done so with a significant amount of good faith on my part and totally without compensation for the dozens of hours that I have spent reviewing these prior patent cases and working with LSI lawyers. (Not to mention the expense of reviewing issues with my personal attorneys.)
2. I will continue to protect LSI Intellectual Property as I have diligently done since I left, but I am put in an increasing quandry due to LSI's negligence in finishing these matters in a timely fashion. This quandry is that any embellishments to the patent from my original input is not a result of my input. However, should I review this (and any other patents that may have been embellished since my involvement) I will be exposed to LSI IP that I do not wish to be party to. While I do not work directly in the specific area (at least as I vaguely remember it) of this particular patent for my current employer, I think you can understand the difficult position this puts me in from an ongoing IP standpoint.

I will return the documents you sent me for this patent - unreviewed via the Fed Ex package you supplied.

I will say that I regret any inconvenience that this may cause you, but have not determined an option that is acceptable.

Regards,

Rod DeKoning

-----Original Message-----

From: Walter J. Malinowski [mailto:wjm@suiter.com]
Sent: Monday, November 19, 2001 3:14 PM
To: DeKoning, Rod
Subject: Papers requiring signature for filing a patent application for LSI Logic docket no. 01-019

Dear Mr. Rodney DeKoning:

You are listed as one of two co-inventors for the patent application of LSI Logic docket no. 01-019.

It is my understanding that you do not intend to sign the papers, including the declaration and assignment, required for filing the patent application with the Patent Office.

Would you please confirm this? If you confirm this, would you put in, as a minimum, a statement such as "I refuse to sign the papers required to file the patent application, at the United States Patent and Trademark Office, for LSI Logic docket no. 01-019, entitled "Method for the Acceleration and Simplification of File System Logging Techniques using Storage Device Snapshots", of which I and William Delaney are the two inventors".

Thank you,

Walter Malinowski
Reg. No. 43,423
Suiter & Associates

DeKoning, Rod

From: Walter J. Malinowski [wjm@suiter.com]
Sent: Monday, November 19, 2001 9:31 AM
To: DeKoning, Rod
Cc: Mark Salvatore
Subject: Re: LSI Patent 01-019



Dear Mr. DeKoning:

I would like to have your review of the patent application. I would also hope to have your signature on the appropriate documents.

It was actually Bill Delaney, according to my understanding, who forwarded the patent application and papers for signing to you.

As far as your comment "This quandry is that any embellishments to the patent from my original input is not a result of my input." is not the point as far as inventorship. For inventorship, your inventive efforts need to have been expressed in one of the claims.

Two citations from the Manual of Patent Examining Procedure are provided immediately below.

"As long as the inventor maintains intellectual domination over making the invention, ideas, suggestions, and materials may be adopted from others."

"Each joint inventor must generally contribute to the conception of the invention. A coinventor need not make a contribution to every claim of a patent. A contribution to one claim is enough."

Again, I encourage your review of the patent application.

Thank you,

Walter Malinowski
Suiter & Associates

----- Original Message -----

From: "DeKoning, Rod" <RDeKonings@Pirus.com>
To: <wjm@suiter.com>
Sent: Monday, November 19, 2001 8:21 AM
Subject: LSI Patent 01-019

> Walter Malinowski,
>
> I apologize for the delay in getting back to you. I received the LSI
patent
> a couple of weeks ago, and have been trying to decide how to proceed. I
am
> also very heavily saturated with a project for my current employer.
>
> As of right now, I have not reviewed the patent. LSI forwarded the patent
> to me and asked me 'just to sign it' and send it on. Obviously, I can not
> do this.
>
> I know you have very little to do with this, but I must share my thoughts
> with you at this time.
>
> My situation is that I left LSI on October 19, 2000. Over 1 year ago. At
> that time, I had several patents on going. I went over the list with
(then)

> LSI patent attorney Wayne Bailey. He assured me that LSI would attempt to
> finish this list in a timely fashion. The patent you forwarded me was NOT
> on that list, and is anything but timely.
>
> In my opinion, I have been incredibly flexible in completing LSI IP (10
> patents since I left) including one that dragged into late March of this
> year. I have done so with a significant amount of good faith on my part
and
> totally without compensation for the dozens of hours that I have spent
> reviewing these and working with LSI lawyers. (Not to mention the expense
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> be exposed to LSI IP that I do not wish to be party to. While I do not
work
> directly in the specific area (at least as I vaguely remember it) of the
> patent for my current employer, I think you can understand the difficult
> position this puts me in from an ongoing IP standpoint.
>
> I am prepared to return your writeup of the LSI patent to your office
> without my review.
> Please advise.
>
> Rod DeKoning
> rdekoning@pirus.com
> Pirus Networks
> 316.315.0382 x221
>